

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
PHILIP B. GILBERT,
Defendant.

| No. CR19-213-RSM

**PRELIMINARY
ORDER OF FORFEITURE**

PHILIP B. GILBERT,
Defendant.

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Philip Gilbert's interest in the following property:

1. Asus laptop computer bearing serial number HZN0CV03R266069; and
2. Seagate external hard drive bearing serial number NA7G69SW.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS that entry of a Preliminary Order of Forfeiture is appropriate because:

- The above-identified property is forfeitable pursuant to 18 U.S.C. § 2253(a), as it is comprised of prohibited images or property used to commit or to promote commission of the offense of Possession of Child Pornography, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2); and,

1 • Pursuant to the Plea Agreement he entered on June 22, 2020, the Defendant
2 agreed to forfeit the above-identified property, which is subject to forfeiture
3 pursuant to 18 U.S.C. § 2253(a). Dkt. No. 38, ¶ 11.

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5 NOW, THEREFORE, THE COURT ORDERS:

6 1. Pursuant to 18 U.S.C. § 2253(a), and his Plea Agreement, the Defendant's
7 interest in the above-identified property is fully and finally forfeited, in its entirety, to the
8 United States;

9 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
10 be final as to the Defendant at the time he is sentenced, it will be made part of the
11 sentence, and it will be included in the judgment;

12 3. The United States Department of Homeland Security, and/or its authorized
13 agents or representatives ("HSI"), shall maintain the electronic equipment in its custody
14 and control until further order of this Court. HSI shall destroy any images unless they
15 have been destroyed already or will be retained for official, investigative use, as
16 permitted by 21 U.S.C. §§ 853(i) and 881(e);

17 4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
18 United States shall publish notice of this Preliminary Order and its intent to dispose of the
19 property as permitted by governing law. The notice shall be posted on an official
20 government website—www.forfeiture.gov—for at least thirty (30) days. For any person
21 known to have alleged an interest in the property, the United States shall also, to the
22 extent possible, provide direct written notice to that person. The notice shall state that any
23 person, other than the Defendant, who has or claims a legal interest in the above
24 electronics must file a petition with the Court within sixty (60) days of the first day of
25 publication of the notice (which is thirty (30) days from the last day of publication), or
26 within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice
27 shall advise all interested persons that the petition:
28

- a. shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the electronics;
- b. shall be signed by the petitioner under penalty of perjury; and
- c. shall set forth the nature and extent of the petitioner's right, title, or interest in the electronics, as well as any facts supporting the petitioner's claim and the specific relief sought.

5. If no third-party petition is filed within the allowable time period, the United States shall have clear title to the electronics, and this Preliminary Order shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

10 6. If a third-party petition is filed, upon a showing that discovery is necessary
11 to resolve factual issues presented by that petition, discovery may be conducted in
12 accordance with the Federal Rules of Civil Procedure before any hearing on the petition
13 is held. Following adjudication of any third-party petitions, the Court will enter a Final
14 Order of Forfeiture, pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n),
15 reflecting that adjudication; and

16 7. The Court will retain jurisdiction for the purpose of enforcing this
17 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
18 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
19 Fed. R. Crim. P. 32.2(e).

IT IS SO ORDERED.

DATED this 18th day of September, 2020.


RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

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2 Presented by:
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s/Krista K. Bush

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